

REMARKS

Entry of the foregoing, re-examination and reconsideration of the above-identified application, as amended, pursuant to and consistent with 37 C.F.R. § 1.112, and in light of the remarks which follow, are respectfully requested.

By the foregoing amendments, Claims 27-41 have been amended to recite particular derivatives of cinnamic acid, as well as mixtures of cinnamic acid and at least one of the recited derivatives. Support for this aspect of Applicants' invention may be found at least in the former claims and the specification, e.g. at page 5, lines 3-8. Claims 32-41 have been amended to include the features of former Claims 42-51 in order to reduce the number of claims. New Claims 52-56 have been added to recite particular plant hormone compounds, as supported at least in the specification at page 7, lines 3-11. New Claims 57-61 have been further added to recite that the cosmetic composition includes cinnamic acid or a mixture of cinnamic acid and at least one of the recited derivatives. Support for these new claims is present in the specification wherein mixtures of these compounds are described as being suitable. See, e.g., page 5, lines 9-11.

Turning now to the Official Action, Claims 27-31 stand rejected under 35 U.S.C. §102(b) as being allegedly anticipated by Governor et al (EP 0 396 422 A1). In addition, Claims 27-31 have been rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Governor et al. Claims 32-51 have also been rejected under 35 U.S.C. §103(a) as being allegedly obvious over Governor et al in view of Szijjártó née Auber et al (U.S. Patent No. 4,466,961) or Governor et al in view of McAuslan (WO 88/01166). Applicants respectfully traverse these rejections for at least the following reasons.

The present invention relates to a cosmetic composition which includes cinnamic acid, a derivative of cinnamic acid or a mixture of such compounds. As set forth in amended Claims 27-31, the composition includes cinnamic acid, a derivative selected from mono- and polyhydroxycinnamic acids, or alcohols and aldehydes of cinnamic acid, or mixtures thereof.

Governor et al relates to a composition for lightening skin which includes niacinamide or a precursor thereof, a sunscreen chosen from 4-tertiary butyl-4-methoxy dibenzoylmethane, 2-ethyl hexyl methoxy cinnamate or a mixture thereof and a silicone compound. See, e.g., the Abstract.

The present claims are allowable over Governor et al, as well as Governor et al in view of Szijjártó née Auber et al and Governor et al in view of McAuslan, for at least the following reasons.

Governor et al and the combinations of Governor et al with the secondary documents fails to disclose or suggest each and every feature of the claimed invention. For example, the claims recite that the cosmetic composition includes cinnamic acid, a derivative thereof selected from mono- and polyhydroxycinnamic acids, or alcohols and aldehydes of cinnamic acid, or mixtures thereof. In contrast, Governor et al does not disclose or suggest a cosmetic composition which includes these particular compounds. Instead, Governor et al appears to only disclose the use of a sunscreen compound, such as 2-ethyl hexyl methoxy cinnamate (e.g. PARSOL MCX). As such, Governor et al fails to anticipate or render the present claims *prima facie* obvious.

Accordingly, withdrawal of the §102(b) and 103(a) rejections based upon Governor et al is respectfully requested.

Szizjártó née Auber et al and McAuslan furthermore fail to remedy the deficiencies of Governor et al at least for the reason that neither of these documents disclose or suggest the use

of cinnamic acid, a derivative thereof, or mixtures thereof, according to Applicants' claims. The combinations of these secondary documents with Governor et al therefore also fail to render Applicants' claimed invention *prima facie* obvious.

Applicants further submit that Szijjártó née Auber et al and McAuslan are not properly combined with Governor et al to suggest the addition of compounds which stimulate collagen synthesis and/or which stimulate lipid synthesis. Neither of these documents appears to be concerned with this aspect of Applicants' invention and do not suggest the addition of compounds having this effect in a cosmetic composition. Instead, the effect noted in these documents concerns the treatment of injuries to the skin (Szijjártó née Auber et al) and the use of anti-inflammatory compounds as angiogenesis or endiothelialisation stimulators (McAuslan). By comparison, Governor et al does not indicate any concern for adding compounds which produce these effects. As such, there is no motivation to add compounds such as plant hormones to a composition such as Governor et al's, which relates to a composition for lightening skin. Merely because Szijjártó née Auber et al and McAuslan may refer to some benefit does not mean that it would therefore be allegedly obvious to add such compounds to a different composition such as Governor et al's. Absent impermissible hindsight, there is no reason to rely upon Szijjártó née Auber et al and McAuslan to modify Governor et al in the manner proposed in the Official Action.

For at least the foregoing reasons, withdrawal of the §103(a) rejections based upon Governor et al, Szijjártó née Auber et al and McAuslan is respectfully requested.

Claims 17-51 further stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 18-23 of copending Application Serial No. 09/887,073. Applicants respectfully request that this rejection be held in

abeyance until such time as allowable subject matter is found in the copending application. In the alternative, should the claims of the instant application be deemed to be allowable, Applicants request withdrawal of the obviousness-type double patenting rejection and allowance of the present application in accordance with MPEP § 804 I-B (page 800-19 of the 8th edition).

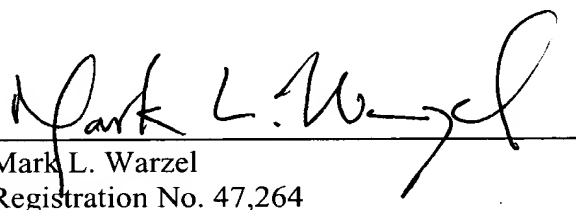
New Claims 52-61 are further allowable since a cosmetic composition according to Claims 27-31 which includes one or more plant hormones according to Claims 52-56 is not disclosed or suggested. As well, cosmetic compositions which include cinnamic acid or a mixture of cinnamic acid and at least one of the claimed derivatives of cinnamic acid are not disclosed or suggested by Governor et al or the secondary documents.

Based on the foregoing, it is believed that the present application is in condition for allowance. A Notice of Allowance is earnestly solicited.

If there are any questions concerning this paper or the application in general, the Examiner is invited to telephone the undersigned at his earliest convenience.

Respectfully submitted,

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Attorney's Docket No. 016800-450

Attachment to Reply and Amendment Filed December 31, 2001
Marked-up Version of Claims 27-41

27. (amended) A cosmetic composition suitable for firming of the skin which comprises an amount of cinnamic acid, [or] a derivative thereof selected from mono- and polyhydroxycinnamic acids, or alcohols and aldehydes of cinnamic acid, or mixtures thereof, effective to provide for firming of the skin and further comprising a cosmetically acceptable carrier therefor.

28. (amended) A cosmetic composition suitable for smoothing of the skin which comprises an amount of cinnamic acid, [or] a derivative thereof selected from mono- and polyhydroxycinnamic acids, or alcohols and aldehydes of cinnamic acid, or mixtures thereof, effective to provide for enhanced smoothing of the skin and further comprising a cosmetically acceptable carrier therefor.

29. (amended) A cosmetic composition suitable for tightening of the skin and which comprises an amount of cinnamic acid, [or] a derivative thereof selected from mono- and polyhydroxycinnamic acids, or alcohols and aldehydes of cinnamic acid, or mixtures thereof, effective to promote tightening of the skin and further comprising a cosmetically acceptable carrier therefor.

30. (amended) A cosmetic composition suitable for alleviating the effects of menopause on the skin comprising an amount of cinnamic acid, [or] a derivative thereof selected from mono- and polyhydroxycinnamic acids, or alcohols and aldehydes of cinnamic acid, or

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mixtures thereof, effective to alleviate the effects of menopause on the skin and further comprising a cosmetically acceptable carrier therefor.

31. (amended) A cosmetic composition suitable for alleviating the effects of menopause on collagen comprising an effective amount of cinnamic acid, [or] a derivative thereof selected from mono- and polyhydroxycinnamic acids, or alcohols and aldehydes of cinnamic acid, or mixtures thereof, effective [effected] to alleviate the effects of menopause on collagen and further comprising a cosmetically acceptable carrier therefor.

32. (amended) The cosmetic composition of Claim 27, which further comprises at least one other product which stimulates collagen synthesis and/or at least one other product which stimulates lipid synthesis.

33. (amended) The composition of Claim 28, which further comprises at least one other product which stimulates collagen synthesis and/or at least one other product which stimulates lipid synthesis.

34. (amended) The cosmetic composition of Claim 29, which further comprises at least one other product which stimulates collagen synthesis and/or at least one other product which stimulates lipid synthesis.

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35. (amended) The cosmetic composition of Claim 28, which further comprises at least one other product which stimulates collagen synthesis and/or at least one other product which stimulates lipid synthesis.

36. (amended) The cosmetic composition of Claim 31, which comprises at least one other product which stimulates collagen synthesis and/or at least one other product which stimulates lipid synthesis.

37. (amended) The cosmetic composition of Claim 32, wherein said other product which stimulates collagen synthesis is selected from [the group consisting of] plant hormones, vitamin C [and] or derivatives thereof and/or said other product which stimulates lipid synthesis is a plant hormone.

38. (amended) The cosmetic composition of Claim 33, wherein said other product which stimulates collagen synthesis is selected from [the group consisting of] plant hormones, vitamin C [and] or derivatives thereof and/or said other product which stimulates lipid synthesis is a plant hormone.

39. (amended) The cosmetic composition of Claim 34, wherein said other product which stimulates collagen synthesis is selected from [the group consisting of] plant hormones,

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vitamin C [and] or derivatives thereof and/or said other product which stimulates lipid synthesis
is a plant hormone.

40. (amended) The cosmetic composition of Claim 35, wherein said other product
which stimulates collagen synthesis is selected from [the group consisting of] plant hormones,
vitamin C [and] or derivatives thereof and/or said other product which stimulates lipid synthesis
is a plant hormone.

41. (amended) The cosmetic composition of Claim 36, wherein said other product
which stimulates collagen synthesis is selected from [the group consisting of] plant hormones,
vitamin C [and] or derivatives thereof and/or said other product which stimulates lipid synthesis
is a plant hormone.